

**ASSEMBLY BILL**

**No. 342**

**Introduced by Assembly Member Koretz**

February 11, 2003

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An act to amend Sections 3960 and 4002 of, and to repeal Section 4756 of, the Fish and Game Code, relating to mammals, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 342, as introduced, Koretz. Mammals: taking.

(1) Existing law prohibits a person from permitting a dog to pursue any big game mammal, as defined, during the closed season, or any fully protected, rare, or endangered mammal at any time. Employees of the Department of Fish and Game are authorized to capture any dog not under the reasonable control of its owner or handler, that is in violation of that provision, or that is inflicting, or immediately threatening to inflict, injury in violation of this provision. Under existing law, certain violations of the Fish and Game Code are misdemeanors.

Existing law prohibits a person from using dogs to hunt, pursue, or molest bears, except under certain conditions.

This bill would recast those provisions by prohibiting a person from allowing a dog to take any mammal for hunting purposes or from training a dog for that purpose.

By changing the definition of a crime, the bill would impose a state-mandated local program.

The bill would exempt from that prohibition persons who have been issued a permit under certain circumstances, federal or state officers in the conduct of official business, or the training of a dog to take game birds.

This bill would require the department to adopt regulations to implement these provisions.

(2) Existing law specifies that fur-bearing mammals may be taken only with a trap, firearm, bow and arrow, poison, or with the use of dogs.

This bill would delete the use of dogs as a means of taking fur-bearing mammals.

(3) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department to pay all necessary expenses incurred in carrying out the Fish and Game Code.

By imposing new duties on the department, the bill would make an appropriation.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3960 of the Fish and Game Code is  
2 amended to read:

3 3960. (a) It is unlawful to ~~permit or allow any dog to pursue~~  
4 ~~any big game mammal during the closed season on such mammal,~~  
5 ~~to pursue any fully protected, rare, or endangered mammal at any~~  
6 ~~time, or to pursue any mammal in a game refuge or ecological~~  
7 ~~reserve if hunting within such refuge or ecological reserve is~~  
8 ~~unlawful take, as defined in Section 86, any mammal for hunting~~  
9 ~~purposes.~~

10 Employees of the department may capture any dog not under the  
11 reasonable control of its owner or handler, when ~~such that~~  
12 ~~uncontrolled dog is pursuing taking a mammal,~~ in violation of this  
13 ~~section, any big game, fully protected, rare, or endangered~~  
14 ~~mammal subdivision.~~

15 Employees of the department may capture or dispatch any dog  
16 inflicting injury or immediately threatening to inflict injury to any  
17 ~~big game mammal during the closed season on such mammal, and~~  
18 ~~they may capture or dispatch any dog inflicting injury or~~

1 ~~immediately threatening to inflict injury on any fully protected,~~  
2 ~~rare, or endangered mammal in violation of this subdivision.~~

3 ~~Employees of the department may capture or dispatch any dog~~  
4 ~~inflicting injury or immediately threatening to inflict injury to any~~  
5 ~~mammal in a game refuge or ecological reserve if hunting within~~  
6 ~~such refuge or ecological reserve is unlawful.~~

7 ~~No~~

8 *(b) It is unlawful to train a dog to take any mammal in violation*  
9 *of subdivision (a).*

10 *(c) No criminal or civil liability shall accrue to any department*  
11 *employee as a result of enforcement of this section. For the*  
12 *purpose of this section, “pursue” means pursue, run, or chase.*

13 ~~Owners~~

14 *(d) Owners of dogs with identification, that have been captured*  
15 *or dispatched, shall be notified within 72 hours after of capture or*  
16 *dispatch.*

17 *(e) This section does not apply to the use of dogs to take*  
18 *mammals under the following circumstances:*

19 *(1) Pursuant to a permit issued by the department in*  
20 *accordance with Section 4181 or 4801.*

21 *(2) By federal or state officers in the conduct of official*  
22 *business.*

23 *(3) To train a dog to take game birds.*

24 *(f) The department shall adopt regulations to implement this*  
25 *section.*

26 SEC. 2. Section 4002 of the Fish and Game Code is amended  
27 to read:

28 4002. Fur-bearing mammals may be taken only with a trap, a  
29 firearm, bow and arrow, *or* poison under a proper permit, ~~or with~~  
30 ~~the use of dogs.~~

31 SEC. 3. Section 4756 of the Fish and Game Code is repealed.

32 ~~4756. Except as provided in this section it is unlawful to use~~  
33 ~~dogs to hunt, pursue, or molest bears.~~

34 ~~The use of one dog per hunter is permitted for the hunting of~~  
35 ~~bears during the time that the season is open for the taking of deer~~  
36 ~~in the area of the state affected.~~

37 ~~The use of more than one dog per hunter is permitted in the~~  
38 ~~hunting of bears during the open season on bears in the area of the~~  
39 ~~state affected except during the period when archery deer seasons~~  
40 ~~or regular deer seasons are open.~~

1 SEC. 4. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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